

LEGISLATIVE BILL 1427

Approved by the Governor March 29, 2000

Introduced by Jensen, 20; Beutler, 28; Byars, 30; Price, 26; Tyson, 19

AN ACT relating to the Nebraska Health Care Trust Fund Act; to amend sections 71-6050, 71-7606, 71-7607, and 71-7609 to 71-7611, Revised Statutes Supplement, 1998, and sections 71-7605, 71-7606.01, 71-7608, and 71-7614, Revised Statutes Supplement, 1999; to change the name of the act; to state intent; to eliminate a statement of findings; to rename funds and a council; to change and eliminate provisions relating to funding and using certain funds and membership on a council; to harmonize provisions; to repeal the original sections; and to outright repeal section 71-7612, Revised Statutes Supplement, 1999.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-6050, Revised Statutes Supplement, 1998, is amended to read:

71-6050. (1) The council shall advise and make recommendations to the department on all matters pertaining to the licensure and regulation of nursing homes in this state, and in furtherance of such powers, the council shall:

(a) Study, review, and make recommendations from time to time to the department for rules and standards governing the licensing and operation of nursing homes in this state;

(b) Recommend procedures to the department in making inspections, reviewing applications, conducting hearings, and performing other duties of the department relative to nursing homes;

(c) Assist the department in the formulation of minimum standards and regulations for nursing homes in this state; and

(d) Perform such other duties as may be necessary to carry out the purposes and intent of sections 71-2024 and 71-6043 to 71-6052.

(2) The council shall advise the Department of Health and Human Services Finance and Support and the Director of Finance and Support regarding the awarding of grants or making of loan guarantees under ~~sections 71-7613 and 71-7614~~ section 71-7613.

Sec. 2. Section 71-7605, Revised Statutes Supplement, 1999, is amended to read:

71-7605. Sections 71-7605 to 71-7614 shall be known and may be cited as the Nebraska Health Care ~~Trust Fund~~ Funding Act.

Sec. 3. Section 71-7606, Revised Statutes Supplement, 1998, is amended to read:

71-7606. The purpose of the Nebraska Health Care Funding Act is to use the investment income received from specifically named funding sources for the provision of health care and long-term care services in the State of Nebraska including (1) alternatives to traditional long-term care services, (2) health insurance, (3) community public health services, (4) health care access and delivery for the medically underserved, and (5) health care quality and cost containment. No funds shall be used under the Nebraska Health Care Funding Act for abortion, abortion counseling, referral for abortion, or school-based health clinics. The Legislature finds that:

~~(1) The preservation, improvement, and coordination of the health infrastructure of Nebraska is critical to the health and safety of all Nebraskans;~~

~~(2) An increasing number of elderly persons and persons with disabilities in the State of Nebraska are in need of long-term care services;~~

~~(3) Alternatives to traditional long-term care services provided by nursing facilities are necessary in providing cost-effective services to those requiring assistance;~~

~~(4) The development of alternatives to nursing facility care such as assisted-living facility services is critical in areas of the state where such alternatives are unlikely to be available;~~

~~(5) Children without health insurance coverage are in jeopardy of receiving substandard health care;~~

~~(6) Cost containment in the provision of health care is necessary to achieve improved health services and insure access by all Nebraska residents;~~

~~(7) There is a need for community public health services which emphasize prevention, coordinate the use of community health resources, and extend health services into the community; and~~

~~(8) There is a need for grants for expenditures which will improve access to or delivery of health care services to medically underserved individuals or in medically underserved areas or which will help contain or reduce the cost or improve the quality of health care services.~~

Sec. 4. Section 71-7606.01, Revised Statutes Supplement, 1999, is amended to read:

71-7606.01. For purposes of the Nebraska Health Care Trust Fund Funding Act, investment income means the net appreciation, realized and unrealized, in the fair value of the assets over the aggregate donations to the fund.

Sec. 5. Section 71-7607, Revised Statutes Supplement, 1998, is amended to read:

71-7607. (1) The Nebraska Health Care Medicaid Intergovernmental Trust Fund is created. The fund shall include revenue received on or after January 1, 1998, from governmental nursing facilities ~~participating under the requirements for receiving~~ payments for nursing facility services under the medical assistance program established pursuant to section 68-1018. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund, except that of such revenue received on or after July 1, 2000, fourteen million dollars shall be remitted to the State Treasurer for credit to the Nursing Facility Conversion Cash Fund. The department shall ~~administer the fund and shall~~ adopt and promulgate rules and regulations to establish ~~the~~ procedures for participation by governmental nursing facilities and for the receipt of such revenue under this section. Investment income from the Nebraska Medicaid Intergovernmental Trust Fund shall be transferred to the Nebraska Health Care Cash Fund to be used as provided in section 71-7611.

(2) If there is an unanticipated reduction in federal medicaid funds derived pursuant to this section, the department may use revenue in the Nebraska Medicaid Intergovernmental Trust Fund to offset the amount of such reduction.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. Section 71-7608, Revised Statutes Supplement, 1999, is amended to read:

71-7608. The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received from a settlement or judgment awarded to by the State of Nebraska as a result of in connection with any tobacco-related litigation for compensation for the costs of treating smoking-related illnesses to which the State of Nebraska is a party. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund. Subject to the terms and conditions of ~~the settlement or judgment~~ such litigation, the investment income ~~on the revenue from the fund~~ shall be transferred to the Excellence in Nebraska Health Care Trust Cash Fund to be used ~~for grants or loan guarantees as provided in section 71-7614 as provided in section 71-7611.~~ Any money in the Nebraska Tobacco Settlement Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Section 71-7609, Revised Statutes Supplement, 1998, is amended to read:

71-7609. The Nursing Facility Conversion Cash Fund is created. The fund ~~shall include revenue transferred from the Nebraska Health Care Trust Fund.~~ The Nursing Facility Conversion Cash Fund shall be used for grants or loan guarantees as provided in section 71-7613 after deducting expenses incurred in the administration of the such grants or loan guarantees. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Section 71-7610, Revised Statutes Supplement, 1998, is amended to read:

71-7610. The Children's Health Insurance Cash Fund is created. The fund ~~shall include revenue transferred from the Nebraska Health Care Trust Fund.~~ The Children's Health Insurance Cash Fund shall be used for the state's matching share for the children's health insurance program under Title XXI of the federal Social Security Act and for expenses incurred in the administration of the such program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Section 71-7611, Revised Statutes Supplement, 1998, is amended to read:

71-7611. The ~~Excellence in Nebraska Health Care Trust~~ Cash Fund is created. The fund shall include revenue transferred from the Nebraska Health Care Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund. ~~The Excellence in Health Care Trust~~ The Nebraska Health Care Cash Fund shall be used for grants ~~or loan guarantees~~ as provided in section 71-7614 after deducting any expenses incurred in the administration of ~~the such grants.~~ ~~or loan guarantees.~~ Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Section 71-7614, Revised Statutes Supplement, 1999, is amended to read:

71-7614. (1) ~~Beginning January 15, 1999, the Excellence in The Nebraska Health Care Trust~~ Cash Fund shall be used for grants for (a) ~~awarding grants or making loan guarantees as described in section 71-7613 for conversion of nursing facilities to assisted-living facilities or other alternatives to nursing facility care,~~ (b) awarding grants for public health services which focus on health education, preventive health measures, and environmental health, assessment, and assurance, including services for reservation or service areas of federally recognized Native American tribes in Nebraska and organizations that focus on the health of minority groups, ~~(e) awarding grants for~~ (b) activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children, ~~(d) awarding grants for~~ (c) conversion of hospitals in rural areas of the state to critical access hospitals, ~~(e) awarding grants for~~ (d) education, recruitment, and retention of primary care professionals, behavioral health professionals, and nurses for medically underserved areas, ~~(f) awarding grants for~~ (e) health infrastructure development which is supportive of telemedicine capability, including, but not limited to, high-speed data and medical information transmission, and (f) ~~(g) awarding grants for~~ the development and expansion of community-based aging services designed to promote the independent living status of and delay institutional care for elderly persons, including, but not limited to, personal care, respite care, homemaker care, and chore and transportation services. ~~and~~ (h) ~~the state's matching share for children's health insurance under Title XXI of the federal Social Security Act in excess of the funds distributed under subdivision (2)(b) of section 71-7612. No more than one-half of the money in the Excellence in Health Care Trust Fund may be used for conversion projects under subdivision (a) of this subsection. No funds shall be used under this section for abortion, abortion counseling, referral for abortion, or school-based health clinics.~~

(2) The ~~Excellence in Nebraska Health Care~~ Council is created. The Director of Finance and Support or his or her designee shall be an ex officio member of the council. The council shall consist of a chairperson and ~~five~~ eight additional members appointed by the Governor with the approval of a majority of the Legislature. The chairperson and additional members shall be appointed for three-year terms, except that of the initial members, ~~two~~ three shall be appointed for one-year terms and ~~two~~ three for two-year terms. ~~Any member appointed prior to April 29, 1999, shall be subject to the approval of a majority of the Legislature.~~ The membership shall include at least one consumer and one health care provider and shall be representative of all geographical regions of the state. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. The Department of Health and Human Services Finance and Support shall provide staff support for the council. The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and the council as may be necessary. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council, with the approval of the Director of Finance and Support, ~~shall award grants or make loan guarantees under subdivision (1)(a) of this section and shall award grants under subdivisions (1)(b) through (g) subsection (1) of this section to a person or entity for expenditures, including, but not limited to, startup and training expenses and operating losses, which will improve access to or delivery of health care services to medically underserved individuals or in medically underserved areas or which will help contain or reduce the cost or improve the quality of health care services. The Director of Finance and Support, with the advice of the Nursing Home Advisory Council and the Policy Cabinet created in section 81-3009, shall use the procedures and criteria of section 71-7613 to make recommendations for grants to be awarded or loan guarantees to be made by the Excellence in Health Care Council under subdivision (1)(a) of this section.~~

(4) Eligible activities under subdivision (1)(a) ~~(1)(b)~~ of this section shall include, but not be limited to, (a) projects to implement the Community Health Care Act, (b) the hiring of school nurses by educational service units, school districts, public health entities, or partnerships between schools and public health entities in order to identify children for medicaid eligibility and to provide immunizations and other public health services, (c) health education and activities that focus on prenatal care, proper diet, physical activity, the reduction of teen and other unintended pregnancies, the prevention of disease, and other public health problems, (d) staffing needs for public health services or education, including recruitment and training, (e) pregnancy testing, (f) tests and screenings for blood pressure, cholesterol, sexually transmitted diseases, cervical cancer, breast cancer, communicable diseases, and other potential public health problems, (g) matching funds for state and federal health programs designed to address public health needs, (h) laboratory equipment to enable the Department of Health and Human Services Regulation and Licensure to carry out its powers and duties relating to laboratory services, (i) public health environmental services, and (j) education, research, and outreach programs that specifically address the cause and prevention of smoking-related diseases and smoking prevention and cessation.

(5) This section does not create an entitlement to any funds available for grants ~~or loan guarantees~~ under this section, and the council may award grants ~~or make loan guarantees~~ to the extent funds are available and, within its discretion, to the extent such applications are approved. No project shall receive funding for more than three years through such grants unless the council determines that unusual circumstances dictate the need for an extension of funding. Extensions shall be granted for no more than one year at a time and shall be reported by the Department of Health and Human Services Finance and Support to the Health and Human Services Committee of the Legislature.

(6) The department shall:

(a) In consultation with the ~~Excellence in Nebraska~~ Health Care Council, develop criteria for the awarding of grants from the ~~Excellence in Nebraska Health Care Trust~~ Cash Fund pursuant to ~~subdivisions (1)(b) through (g)~~ subsection (1) of this section;

(b) Have the power to approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution and duration of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives; and

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include the number of applicants and approved applicants, an overview of the various projects, and detailed reports of the cost of each project.

(7) The department shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of projects funded from the fund pursuant to ~~subdivisions (1)(b) through (g)~~ subsection (1) of this section. Such projects shall not include permanent, ongoing programs unless approved by the Legislature. The department or council may recommend projects to the Legislature for establishment as permanent, ongoing programs to be funded from the fund. Permanent, ongoing programs approved by the Legislature shall be fully funded on an annual basis prior to the use of the fund for any other project funded from the fund pursuant to subsection (1) of this section. Recipients of such grants funding pursuant to subsection (1) of this section shall be required to provide, upon request, such data relating to the funded projects as the department deems necessary.

Sec. 11. Original sections 71-6050, 71-7606, 71-7607, and 71-7609 to 71-7611, Revised Statutes Supplement, 1998, and sections 71-7605, 71-7606.01, 71-7608, and 71-7614, Revised Statutes Supplement, 1999, are repealed.

Sec. 12. The following section is outright repealed: Section 71-7612, Revised Statutes Supplement, 1999.